

United States District Court  
Northern District of Indiana

) Craig Cunningham  
) Plaintiff, Pro-se  
)

) v. Civ Action 2:17-cv-00777  
)

) Foresters Financial Services, et al  
) Defendants.

-FILED-

JAN 10 2018

At \_\_\_\_\_ M  
ROBERT N. TRGOVICH, Clerk  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA

**Plaintiff's Motion to Compel, Motion for sanctions, and Motion for an order of contempt**

1. The Plaintiff requests the court issue an order compelling Braintree, Inc to comply with the Plaintiff's subpoena and produce the information requested in the Plaintiff's subpoena. Furthermore, the Plaintiff requests the court sanction Braintree, Inc. \$10,000 for ignoring the subpoena issued by the court and hold them in contempt of court.
2. The Plaintiff has been in the process of trying to identify all parties in this case, and is on the verge of identifying the person or entity that paid for the phone service on the numbers that called the Plaintiff. The Plaintiff has determined that Onvoy, LLC is the phone carrier for the telemarketers calls, but all of the subscriber information for the phone numbers provided was fake. For example, the telemarketer's name, address, phone number, and entity name were all completely fabricated, obviously because the telemarketer knew they wanted to break the law and get away with it. The only way to track the calls is to track the money paid via credit/debit card.
3. Onvoy does not have the full credit/debit card numbers for the credit card that called the Plaintiff, the merchant card processor for Onvoy, which is a Paypal subsidiary, Braintree, Inc., does have that information.
4. The Plaintiff has gone back and forth with Paypal/Braintree and Onvoy in an attempt

to identify the merchant account in question for Onvoy, so the specific transactions at issue can be identified.

5. Braintree has been served with a subpoena from this court and a return of service is on file for the subpoena.

6. 3<sup>rd</sup> party Braintree has had more than enough time to respond to the subpoena and is well aware of the information requested by the Plaintiff. The Plaintiff has sought this information for more than 6 months from Paypal/Braintree with no response from them.

7. The unreasonable delays by Braintree are causing an information bottleneck in this case and is hindering the Plaintiff from identifying the telemarketer in this case and obtaining phone records which are vital to proving the Plaintiff's case.

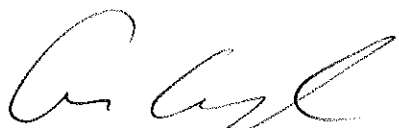
8. The Plaintiff's subpoena was delivered on Decemebr 26<sup>th</sup> 2017 and the defendants have had more than enough time and information to identify the transactions in question. Despite being in communication with the Plaintiff regarding the information requested for months, Braintree is simply ignoring the subpoena.

**The Court should order Braintree to produce the records requested in the subpoena**

9. The Plaintiff requests the court order Braintree to produce the records, which are needed in this case to identify the telemarketers in this case. The Plaintiff is seeking the information requested in the subpoena instructions to include transaction records as attached to this motion as Plaintiff's exhibit 1.

**The court should hold Braintree in contempt and sanction them \$10,000**

10. It is appropriate to sanction Braintree for their willful misconduct in ignoring the Plaintiff's subpoena. The defendants have failed without any excuse to obey the subpoena.

A handwritten signature in black ink, appearing to read 'Craig Cunningham', is positioned above the printed name.

Craig Cunningham, 5543 Edmondson Pike, ste 248 Nashville, TN 37211, 615-348-1977

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**Plaintiff's Certificate of Service**

I hereby certify a true copy of the foregoing was mailed to the defendants in this case via USPS first class mail on 1/5/2017



Craig Cunningham, 5543 Edmondson Pike, ste 248 Nashville, TN 37211, 615-348-1977